IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

WP(C).No. 32865 of 2006(K)

PETITIONER:

M.B.SATHYAN,
MAVUNILKUNNATHIL, ELANTHOOR EAST P.O.,
PATHANAMTHITTA.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT,
GOVERNMENT OF KERALA, PATTOM,
THIRUVANANTHAPURAM.

3. THIRUVANANTHAPURAM REGIONAL CO-OP.
MILK PRODUCERS UNION LTD.,
KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM,
REP. BY ITS MANAGING DIRECTOR.

4. L.RAJENDRAN,
KAPPIKKADU KSHEEROLPADAKA SAHAKARAN SANGHAM,
KAPPIKKADU, POOVACHAL P.O.,
THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER SRI P.N. SANTHOSH
SRI.B.S.KRISHNAN (SR), SC FOR R3
SRI.K.ANAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

W.P.(C). 32865/2006

Dated this the 11th day of December, 2006

JUDGMENT

The main contention of the writ petitioner is that, although he raised various contentions before the second respondent, the Director, Diary Development Department, Government of Kerala, Pattom, Thiruvananthapuram, Ext.P6 order, disqualifying the writ petitioner, is passed without appreciation of the facts, that had been raised before the second respondent. The learned counsel, therefore, submits that a direction may be given to the second respondent to re-consider the entire matter afresh, and pass order within a time frame.

2. I heard the arguments advanced by the learned counsel on either side as well as the learned Senior Government Pleader. I had gone through Ext.P6 also.

3. The learned counsel brought to my notice, various provisions of the bye-laws of the third respondent, Society, and the application of Rules 44(1) (j), 44(2) and

44(3) of the Kerala Co-operative Societies Rules, 1969, in short 'the Rules', together with clause 20 of the bye-laws of the third respondent, Society. The counsel submits that the qualification, required to contest the election, as a representative of the ordinary members of the third respondent, Society, has been continued with, even after the election. It is also further submitted that there was no violation of the provisions of the bye-laws of the third respondent, Society.

4. The counsel for the third respondent, however, submits that after completing the requirements prior to the election, an electoral member of the managing committee cannot stop to do the same, supplying milk to the union, less than what he did prior to the election. The counsel, therefore, submitted that all these point had not been dealt with in detail and, therefore, a miscarriage of justice had been caused while passing Ext.P6 order.

5. After considering the submissions made by all

concerned and the Ext.P6 order dated 29.11.2006, I am of the opinion that an opportunity can be given for the second respondent, the Director of Diary Development Department, to re-appreciate the facts that are placed, together with the contentions that are raised by the writ petitioner. To enable the same, I set aside Ext.P6 order and remand the matter back to the second respondent.

6. The Director, the second respondent, shall hear again the writ petitioner and all other connected parties and pass orders on merit, after considering and appreciating the contentions that may be raised by the parties, before him.

7. This shall be done within two months from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs